

RESTRICTED
 IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEBRASKA

VOLVO CONSTRUCTION)	
EQUIPMENT RENTS, INC.,)	
)	
Plaintiff,)	4:11CV3010
)	
V.)	
)	MEMORANDUM AND ORDER
NRL RENTALS, L.L.C, et al.,)	
)	
Defendants.)	

On or about June 8, 2011, the undersigned United States Magistrate Judge ordered Rachel R. Erick to execute a Consent to Search and Account Verification (the “Consent”) instructing Yahoo!, Inc. to provide Ms. Erick’s email records to the plaintiff. On August 4, 2011, Ms. Erick personally appeared before the court and her account and password information were verified under oath in the courtroom. Attached to this Memorandum and Order is a copy of the transcript of the portion of the August 4, 2011 hearing in which Ms. Erick disclosed her email account, password and her “Secret Question.” She testified that her user name is rre_21@yahoo.com and her password is Dabney21. See Exhibit “A”, Tr. 6:2-6:8. Ms. Erick also completed the Consent, however it appears the email account was incorrectly written on the consent as “rre21@yahoo.com” instead of “rre_21@yahoo.com.” During the course of the hearing, the court was able to access Ms. Erick’s Yahoo! email account online with the information Ms. Erick provided during the hearing.

The plaintiff forwarded the executed Consent to Yahoo!, Inc. in an attempt to obtain the requested information. Yahoo!, Inc. refused to comply with the request, noting that the account and password information provided on the Consent were not accurate.

Attached to this Memorandum and Order is a subpoena for service upon Yahoo!, Inc. In the United States District Court for the Northern District of California. The subpoenas are signed by Robert W. McIntyre, counsel for the plaintiff and an attorney authorized to practice

in multiple United States District Courts and Courts of Appeal. Mr. McIntyre is therefore authorized to sign the attached subpoenas for document production pursuant to Rule 45(a)(3)(A) of the Federal Rules of Civil Procedure. The subpoenas identify the Ms. Erick's correct email account.

The subpoenas command Yahoo!, Inc. to produce various documents in connection with Ms. Erick's email account to the undersigned judge. Notwithstanding any discrepancy on the Consent, Yahoo!, Inc. is instructed to produce all requested documents relating to Ms. Erick's email account, identified as:

Account: rre_21@yahoo.com
Password: Dabney21

IT IS ORDERED:

- 1) On or before November 17, 2011, Yahoo!, Inc. shall assemble and produce to the undersigned magistrate judge, at the name and address set forth in the attached subpoenas, the documents relating to Rachel R. Erick's Yahoo! email account.
- 2) The clerk shall prepare a certified copy of this order, attach a copy to the subpoena, and deliver the order with attached subpoena to the Marshal.
- 3) To preserve the integrity of this court and assure the enforcement of its orders, and to minimize any further delay in case progression, the United States marshal or deputy United States marshal, or a person specially appointed for that purpose, is required to serve a certified copy of this order along with the attached subpoena on:

Yahoo!, Inc.
701 First Avenue
Sunnydale, CA 94089

October 27, 2011

BY THE COURT:



Cheryl L. Evans
United States Magistrate Judge